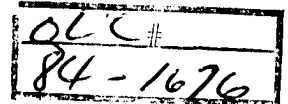




United States Department of State

Assistant Secretary of State
for European Affairs

Washington, D.C. 20520



April 16, 1984

Dear Senator Leahy:

As I indicated to you in our recent telephone conversation, I fully share your concern about hostile foreign intelligence activities in this country and the potential threat to national security that they represent. We have taken a number of steps in this direction and are in the process of implementing others. But the amendments which you have proposed for inclusion in the Intelligence Authorization Bill for FY 1985 present serious legal, practical and foreign policy problems and I wanted to share them with you. With regard to the specific provisions let me deal with them briefly in order.

Our problem with section (a) is that it appears to go beyond the objective of reciprocity (which is also defined in other legislation like the Foreign Missions Act) by putting Congress on record in favor of a policy of absolute equality in numbers. If adopted, such a policy could push us into a rigid position on these matters which in most cases would not be in our interest. For example, no one either in the Congress or the Executive Branch has done a study of the issue of whether our Embassy in Moscow could function effectively with 100 percent American staff and no Soviet employees.

With regard to Section (b), we generally think that report language rather than statutory language would be the best place to spell out how to work toward overall goals that are defined elsewhere. But we also have problems with the specifics of the Section as currently drafted:

-- It would require determinations by the President that place an undesirable and unfair burden on him: that a government was engaged in intelligence activities harmful to the United States, and then that it is in the national interest not to expel large numbers of officials of that government or not to deprive them of their immunities.

-- If we decided to deprive such officials of their immunities, in the Soviet case we would be violating a bilateral agreement in force since 1967, which gives all members of our Embassies and their families full diplomatic privileges and immunities on a reciprocal basis.

The Honorable
Patrick J. Leahy,
United States Senate.

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-- Expulsion or deprivation of immunity by us would inevitably expose a commensurate number of our people in the Soviet Union to retaliatory action by the Soviets.

I firmly believe that the objectives of Section (c) would be better met by annual testimony before the Congress by the agencies concerned rather than by what might become a compromise written report. Naturally, the State Department would be prepared to update factual material, such as numbers of Soviets and other diplomats.

Section (d) of your proposal would strike the requirement in the State Department Basic Authorities Act that the Director of the Office of Foreign Missions be a Foreign Service Officer with certain special qualifications, and that the Deputy Director be a member of the intelligence community. This provision was accepted last year by the House/Senate Conference on the Department's FY 84/85 Authorization Bill so as to provide greater definition of the role of the Office of Foreign Missions. We would prefer that this question not be reopened at this time.

Finally, as a matter of policy, the Administration believes that we should be probing the new Soviet leadership to see whether some progress in our bilateral relationships can be made, and I think there is a real question as to whether legislation of this sort would help or hinder that effort.

Again, I want to make clear that I strongly endorse your objective of encouraging reciprocity and equivalence and controlling the hostile intelligence threat. I look forward to working with you and with the Intelligence Committee in finding ways to achieve those goals while at the same time promoting our foreign policy objectives.

Sincerely,

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Richard Burt